# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/780,281 | 02/09/2001 | Ikuo Nakamura | 112857-200 | 8042 |

| 29175 | 7590 | 09/16/2005 |
|---|---|---|

BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

| EXAMINER |
|---|
| RYMAN, DANIEL J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2665 | |

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

| *Advisory Action*<br>*Before the Filing of an Appeal Brief* | Application No.<br>09/780,281 | Applicant(s)<br>NAKAMURA, IKUO | |
| :--- | :--- | :--- | :--- |
| | Examiner<br>Daniel J. Ryman | Art Unit<br>2665 | |

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED <u>25 August 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: <u>*1-12*</u>.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet</u>.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.
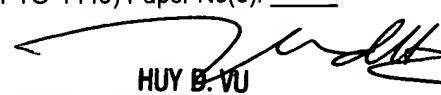
HUY B. VU<br>SUPERVISORY PATENT EXAMINER<br>TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: Applicant asserts that Shteyn does not disclose that a DCM determines whether a device has a particular functionality. Examiner, respectfully, disagrees. Shteyn discloses that the DCM is used to register a device's capabilities (col. 3, line 51-col. 4, line 7). In order to register a device's capabilities, the DCM must first determine what capabilities the device has. In addition, this registry allows any other device or application to also determine the device's capabilities (col. 4, lines 5-7).

Applicant further asserts that the Specification does not disclose "that presence or lack of the time compensating function is made known to any other device on the network." Specifically, the combination of the Specification and Shteyn "does nothing to suggest that the time compensating function is not purely an internally known and internally used function of a device having it." Again, Examiner, respectfully, disagrees. The Specification discloses that whether or not a device has a time compensation function will determine the manner in which the device operates. In order words, a device with a time compensation function will interact with other devices in a manner different than a device without a time compensation function. Therefore, the time compensation function is not purely an internally known and internally used function of a device having it. For example, as suggested by the Specification, if an external video device assumes that another video device has a time compensation function when it does not, then the recorded picture will deviate from the reproduced picture. Thus, in order to properly record the video picture, each device has to know if the other device requires time compensation. As such, Examiner maintains that the use of a time compensation function is a capability of a device that would be available to external devices since this capability affects how a device interacts with other devices.

Applicant additionally asserts that Tobias does not disclose a time setting function. However, regardless of whether or not Tobias discloses a time setting function, Examiner submits that Shteyn in view of Applicant's admitted prior art discloses the time setting function, as outlined above. Therefore, Tobias is not required to disclose the time setting function.

For the foregoing reasons, Examiner maintains that the claims are obvious in view of the cited prior art.